

### **Remarks**

Initially, Applicant's attorney would like to thank the Examiner for the courtesy and suggestions extended in the telephonic discussions. An interview summary is contained below.

Independent Claim 1 and dependent Claims 2 and 30 have been amended to further clarify the operation of the present inventions. Further, the misnumbered second Claim 51 through Claim 79 have been renumbered Claims 52-80. Accordingly, Claims 1-10, 12, 14-17 and 24-37 remain pending in the present case with none of the claims yet being indicated as allowable. Reconsideration and allowance is respectfully requested in view of the amendments and remarks below.

### **Interview Summary**

A telephonic interview was conducted on September 13, 2010. Applicant's attorney expressed his concerns regarding the Office's reliance on U.S. Patent No. 6,319,466 ("Markovsky") and U.S. Patent No. 4,239,745 ("Charm"). Applicant's attorney observed that neither of these references provide a reason for one skilled in the art to arrive at a method of using a bacteria that is sensitive to beta-lactams for detection of antibiotics, including beta-lactams, in a microbial growth inhibition test wherein the microbial receptor selectively reduces test sensitivity to the first antibiotic beta-lactam structural class without substantially reducing test sensitivity to the antibiotic from another structural class or the second antibiotic from a beta-lactam structural class.

However, in the interest of advancing prosecution, Applicant's attorney proposed amendments to the Examiner to further clarify embodiments of Applicant's methods. The proposed amendments were favorably received by the Examiner. In addition, the Office suggested amending the phrase 'beta-lactam family' to 'beta-lactam structural class.' Those of ordinary skill in the art will recognize the term 'beta-lactam structural class' includes at least penicillins, cephalosporins, monobactams, and carbapenems. Applicants thank the Examiner for his suggestions and have amended the claims accordingly herein.

### **I. Response to the Claim Rejections**

#### **35 U.S.C. §112 Rejections**

Claims 1-10, 12, 14-17, and 24-37 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. In response, Applicants have amended Claims 1, 2, and 30 to better reflect the disclosure, which address the Office's concerns.

Applicants, therefore, respectfully request that the Office reconsider and withdraw the rejections of Claims 1-10, 12, 14-17, and 24-37 and allow those claims at this time.

### **35 U.S.C. §103 Rejections**

Claims 1-10, 12, 14-17 and 24-37 were rejected as being unpatentable under 35 U.S.C. 103(a) over of U.S. Patent No. 6,319,466 ("Markovsky") in view of U.S. Patent No. 4,239,745 ("Charm").

Regarding these rejections, the currently amended claims address any concerns that the Office has previously presented. Reconsideration and allowance is requested in view of these amendments and remarks made herein to independent Claim 1.

Therefore, for at least these reasons, Applicants respectfully submit that there is no prima facie case of obviousness in this regard and request favorable reconsideration of independent Claim 1, as amended. In addition, dependent Claims 2-10, 12, 14-17 and 24-37 contain the allowable subject matter of independent Claim 1, and therefore, are also allowable for at least these reasons.

### Conclusion

Accordingly, all claims now appear to patentably distinguish over the cited references and allowance is respectfully requested. Applicants note that because Applicants have addressed certain concerns of the Office does not mean that Applicants concede prior amendments or other comments of the Office. Furthermore, in the interest of clarity and brevity, the fact that Applicants have made arguments for the patentability of some claims does not necessarily suggest that there are not additional supportive grounds for the patentability of those or other claims

However, if any issue remains unresolved, Applicants' attorney would welcome the opportunity for a telephone interview to expedite allowance and issue.

Respectfully submitted,



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